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**IN THE UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LEVI SLACK, JR.,

Plaintiff

v.

LEBANON COUNTY CORRECTIONAL
 FACILITY, et al.,

Defendants

CIVIL ACTION NO. 1:CV-01-0708

(Judge Caldwell)

(Magistrate Judge Blewitt)

**FILED
 SCRANTON**

AUG 10 2001

ORDER

PER

DEPUTY CLERK

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

The Plaintiff has filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding pro se.

A Motion to Dismiss the complaint was filed on behalf of Defendants on July 12, 2001. (Doc. 12). A brief in support of the motion was filed on the same date. (Doc. 13). Plaintiff's brief in opposition to the motion is long overdue. The Plaintiff has failed to make any filings or request an extension of time in which to do so.

A Standing Practice Order was issued by the Court on April 24, 2001, which contained an explanation of the procedure to be followed when motions are filed and a copy of the pertinent portions of the Local Rules of Court. (Doc. 6).

Defendants' Motion to Dismiss is presently unopposed. M.D. Pa. Local Rule 7.6. Generally, a dispositive motion may not be granted merely because it is unopposed. Because Local

3. Failure to file a brief in opposition to Defendants' motion will result in the motion being deemed unopposed and will result in a recommendation that Defendants' Motion to Dismiss be granted without a merits analysis.


THOMAS M. BLEWITT
United States Magistrate Judge

Dated: August 10, 2001

Rules of Court must be "construed and applied in a manner consistent with the Federal Rules of Civil Procedure," Anchorage Assoc. v. Virgin Islands Board of Tax Review, 922 F.2d 168, 174 (3d Cir. 1990), the disposition of an unopposed motion ordinarily requires a merits analysis. However, the Third Circuit has stated that Local Rule 401.6¹ can be applied to grant a motion to dismiss without analysis of the complaint's sufficiency "if a party fails to comply with the rule after a specific direction to comply from the court." Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991).

Because the Plaintiff's failure to either file a brief in opposition to the Defendants' motion or to request an extension of time within which to do so indicates that he may have lost interest in prosecuting this action, dismissal of the case without a merits analysis under the authority of Stackhouse will be recommended if the Plaintiff fails to file a brief in opposition to Defendants' Motion to Dismiss in accordance with Local Rule 7.6 on or before **August 23, 2001**. An additional copy of the Standing Practice Order is included herein for the Plaintiff's reference.

AND NOW, this 10th day of August, 2001, IT IS HEREBY ORDERED THAT:

1. The Clerk of Court is directed to serve a copy of this Order, together with the Standing Practice Order (Doc. 6) on the Plaintiff.
2. Plaintiff is directed to file a brief in opposition to Defendants' Motion to Dismiss (Doc. 12) on or by **August 23, 2001**.

1. Now by amendment of December 30, 1993, renumbered Local Rule 7.6.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

August 13, 2001

Re: 1:01-cv-00708 Slack v. Lebanon County

True and correct copies of the attached were mailed by the clerk
to the following:

Levi Slack Jr.
CTY-LEB
Lebanon County Prison
MMIP-0227
730 E. Walnut Street
Lebanon, PA 17042

w/ pro order

David L. Schwalm, Esq.
Thomas, Thomas & Hafer, LLP
305 North Front Street
Sixth Floor, P.O. Box 999
Harrisburg, PA 17108

cc:
Judge () () Pro Se Law Clerk
Magistrate Judge () () INS
U.S. Marshal () () Jury Clerk
Probation ()
U.S. Attorney ()
Atty. for Deft. ()
Defendant ()
Warden ()
Bureau of Prisons ()
Ct Reporter ()
Ctroom Deputy ()
Orig-Security ()
Federal Public Defender ()
Summons Issued () with N/C attached to complt. and served by:
U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5 ()
Order to Show Cause () with Petition attached & mailed certified mail
to: US Atty Gen () PA Atty Gen ()
DA of County () Respondents ()
Bankruptcy Court ()
Other ()

MARY E. D'ANDREA, Clerk

JB 8/13/01